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ISLAMIC REPUBLIC OF IRAN

[28 January 1999]

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I. LAND AND PEOPLE

A. Land

1. The Islamic Republic of Iran is situated in the northern hemisphere in south-west Asia and has a land area of 1,648,195 km². Its neighbours are Turkmenistan, Azerbaijan and Armenia in the north, Afghanistan and Pakistan in the east and Turkey and Iraq in the west. The country is bounded by the Gulf of Oman and the Persian Gulf in the south, where its sea coast runs for 2,043 kilometres. Through these waters Iran is linked to Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates and Oman. In the north, 675 kilometres of the Caspian coast run through Iranian territory. This body of water connects Iran to Kazakhstan and Russia. Iran is a mountainous country about 90 per cent of which is situated within the bounds of the Iranian plateau. The capital and political seat of the country is Tehran. According to the latest administrative divisions Iran has 28 provinces.

2. Iran has a diverse climate. Along the southern shores of the Caspian Sea it is mild and temperate, with higher precipitation than other parts of the country. The average temperature in these areas is 18° centigrade. In the western part of the country the climate is Mediterranean whereas in the southern part it is influenced by semi-desert conditions and high temperatures despite the moist air prevailing in this region. A desert climate dominates the central, eastern and south-eastern parts of Iran and the temperatures vary from very cold in winter to burning hot in summer. There is also a wide difference between daytime and night-time temperatures.

B. Social and demographic conditions

3. According to the 1996 census, the population of the country was 60,055,488, of which 50.81 per cent are men and 49.19 per cent women. About 61 per cent of the population resides in urban areas and 39 per cent in rural areas. The population density is 36.4 persons per km² and the annual growth rate is 1.9 per cent. Statistics show that Iran has a relatively young population. Of the total population 39.56 per cent are below the age of 15, 56.12 per cent are in the 15-64 age group and 4.32 per cent are in the 65 and above age group. However, due to an increase in life expectancy, the population is gradually growing older. Life expectancy has increased from 63 (64 for women and 62 for men) in 1986 to 69 (69 for women and 66 for men) in 1996.

4. Iranians are of Aryan descent and their official language is Farsi. The most important Iranian ethnic and linguistic groups are:

(a) **Azeris**: Azeris live in the north-west of Iran in East and West Azerbaijan and from Zanjan to Qazvin. A group of Azeri people also live in Hamedan and its environs, in Tehran and surrounding areas of Qom and Saveh, in Khorassan province, and are also scattered around other parts of the country. Other ethnic groups living in the central and southern regions of Iran, such as the Qashqais, also speak the Azeri language;

(b) **Kurds**: Kurds live mostly in Kurdestan and Kermanshah provinces and in the south-west of West Azerbaijan. The Kurds are the original Iranians. The Kurdish language is a north-west Iranian language and is part of the Indo-European family of languages and dialects;

(c) **Baluchs**: Baluchs mostly inhabit Baluchistan, an arid region in south-eastern Iran. The Baluchi people speak the Baluchi language, which is an Iranian language of the Indo-European family influenced by east Indian dialect. The majority of Baluchis belong to the Hanafi sect of Sunnite Islam;

(d) **Lors**: Lors is the designation used for a group of ethnic Iranians living in the mountainous regions of south-western Iran, mostly in Lorestan province. Historical evidence shows that Lors and Kurds have the same ethnic roots. Lori is an ancient Iranian language which indicates the great age of these original Iranians. The Lori language is similar to Kurdish, but is an independent language with its own rules;

(e) **The Arabic-speaking groups**: Arabic-speaking tribes and clans are scattered in regions stretching from the Arvand river and the Persian Gulf in the south to Susa in the north of Khuzestan province;

(f) **Foreign immigrants**: Two major groups of Afghan and Iraqi immigrants and refugees and smaller numbers of other nationalities reside in Iran. The total number of immigrants and refugees in 1998 amounted to 2.1 million. Of this number 1.5 million are from Afghanistan, 550,000 from Iraq and 50,000 are nationals of other countries.

5. The other languages and dialects spoken by ethnic and linguistic groups include Turkish, Kurdish, Lori, Gilaki and Arabic. Article 15 of the Constitution states that documents, correspondence and official texts and textbooks shall be in the Farsi language and script. However, the use of local and ethnic languages in the press and other mass media and for teaching of the literature shall also be allowed.

6. According to a census conducted in October 1996, about 99.56 per cent of the people of Iran subscribe to the Islamic faith, 0.13 per cent are Christians, 0.05 Zoroastrians, 0.04 per cent Jewish, and 0.22 per cent are followers of other faiths or undeclared.

7. According to 1996 census, of the total population over six years of age 79.51 per cent were literate. The literacy rate is 85.63 per cent in urban areas and 69.58 per cent in rural areas.

8. Primary education begins at age 7 and graduation from secondary school normally takes place at the age of 18. After five years of primary education and three years of guidance level, students enter one of the three specialized fields of study in high schools, on the basis of their ability, talent and personal interest. These three fields are mathematics and physics, humanities, and experimental sciences. Students can also continue their education at vocational, technical, art and agricultural schools after completion of the guidance level.

9. The Ministry of Culture and Higher Education is responsible for higher and university education, except for medical education.

10. Islamic Azad University is the largest non-governmental university system, established in 1991. Its budget is independent of Government and self-financed by tuition from students. Presently it maintains branches in 28 provinces across the country and has enrolled hundreds of thousands full-time and part-time students in 80 courses in the different academic years. Islamic Azad University has prepared short-term programmes to increase its enrolment to 500,000 students.

11. To expand and generalize higher education, particularly with a view to enhancing the academic knowledge of government employees, teachers and all those who are unable to attend universities, Payam Noor Correspondence University was established in 1987. Correspondence education is conducted by providing books, educational texts and aids, but students need to take examinations by being physically present at one of the various centres of the university.

Number of university students, 1996-1997

Total	Male & female	966 788
	Male	573 262
	Female	393 526
Associate degree	Male & female	152 326
	Male	90 484
	Female	61 842
B.Sc.	Male & female	718 381
	Male	415 345
	Female	303 036
M.Sc.	Male & female	48 216
	Male	36 099
	Female	12 117
Ph.D.	Male & female	47 865
	Male	31 334
	Female	16 531

C. The economy

12. The Islamic Republic of Iran has implemented two economic, social, and cultural development plans since 1991, contributing substantially to the overall improvement of economic indicators. According to the latest statistics, the economic indicators are as follows:

Gross national product (GNP)	17,562 billion rials*
GNP per capita	260,000 rials*
Economic growth rate	5.8%*
Exports	22,307 million dollars*
Imports	22,913 million dollars*
Economically active population (above 10 years of age)	35.31%**
Unemployment - total	3.21%**
Unemployment - male	5.23%**
Unemployment - female	1.27%**
Unemployment in urban areas	2.95%**
Unemployment in rural areas	3.55%**
Active work force in industry	30.70%**
Active work force in agriculture	23.04%**
Active work force in service sector	44.50%*

II. THE POLITICAL SYSTEM

A. Historical background

13. The first migration of Indo-European tribes or Aryans to Iran occurred about the second millennium BC. Iranian history has witnessed the rise and fall of many dynasties. The Prophet Muhammed (P.B.U.H), prophet of Islam, received his divine prophetic mission on the Arabian Peninsula during the latter part of the Sassanid era.

14. Around the seventh century AD, Arab warriors invaded the Iranian plateau and overthrew the Sassanid dynasty. Arab conquerors introduced Islam to Zoroastrians in Iran and invited them to join the new religion, and they adhered to Islam. The domination of Arabs in Iran continued for centuries until the decline of the Islamic empire, when the country became the target of invaders from outside. This continued for 500 years until Shah Ismail Safavi took the reins of power and succeeded in establishing a strong central authority.

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* According to 1998 statistics.

** According to 1996 statistics.

15. During Nader Shah's reign (1736-1747) Iran became a powerful military force. His military exploits extended the domination of the Iranian army as far as India. After the dissolution of the Afsharid dynasty, Karim Khan Zand founded the Zand dynasty. After the death of Karim Khan in 1779 the Qajars took the reins of power and ruled Iran until the end of the first world war.

16. After the first world war Reza Shah came to power and founded the Pahlavi dynasty. During this period a system based on tyranny and dependent on foreign powers ruled Iran. The denial of political, social and cultural rights, the absence of political independence, an unhealthy economic system, the intentional promotion of a culture incompatible with Islamic and Iranian traditions and cultural values, and suppression and dictatorial rule were prevalent features of this period and finally led to a revolution that put an end to this situation.

17. The popular movement for the overthrow of the Pahlavi regime began in 1963 under the leadership of Imam Khomeini. Finally, on 11 February 1979, the Pahlavi regime, together with the monarchy, fell, opening a new chapter in Iranian history. Only 50 days after the victory of the Islamic Revolution a national plebiscite was held, on 1 April 1979, by which 98.2 per cent of the people chose the Islamic Republic as their system of governance.

B. The Constitution

18. The Constitution of the Islamic Republic of Iran provides a solid foundation and a structure for a democratic and Islamic Government built on the ruins of the former despotic monarchic regime. In view of the nature of the popular and broad-based movement of the Iranian people, the Constitution ensures the rejection of all forms of intellectual and social repression and economic monopolies. The Constitution aims to put an end to autocratic rule and to allow the people to decide their own destiny.

19. The draft of the Constitution was prepared by an Assembly of Experts elected by the people. It was approved by a majority of 98.5 per cent of votes cast in a national referendum on 2-3 December 1979. The amendment to the Constitution of the Islamic Republic of Iran was also subject to a referendum on 31 June 1989 and was approved by an overwhelming majority. The Constitution consists of 12 chapters and 175 articles.

C. The leadership

20. The Leader in the Islamic system of governance has the responsibility to lead and guide the society towards perfection and prosperity and to safeguard security and the independence of the Musl'm nation. Thus, the Leader has a very special status and is the highest authority in the country. The exalted status of the Leader emanates from the divine responsibility bestowed on him as well as very important powers assigned to him by the Constitution. According to article 110 of the Constitution the Leader has the responsibility and authority to determine general policies of the country, supervise the good performance of those policies, issue decrees for national referendums and pardon condemned persons or commute their sentence. Article 109 of the Constitution provides that the Leader must have scholastic qualifications, show justice and piety, proper social and political insight, resourcefulness,

courage, management ability and adequate capability to lead the nation. These are the qualifications by which the Assembly of Experts, who are elected by the people, choose the Leader.

21. The Constitution stipulates a number of requirements and qualifications for the Leader and his functions, and if he does not meet them he may be held accountable. Article 111 states that, "Whenever the Leader becomes incapable of fulfilling his constitutional duties, or loses any of the qualifications mentioned in articles 5 and 109, or if at any time it should be known that he did not meet some of the qualifications mentioned in the two articles, he shall be dismissed according to the decision of the Assembly of Experts."

22. The Leader is equal to the rest of the people before the law. This is clearly stated in article 107 of the Constitution. Accordingly, all civil, criminal, economic, taxation, military and other laws are as applicable to the Leader and the members of his family as they are for other people.

D. The legislative power

23. The legislative power of the Islamic Republic of Iran is an institution that has its roots in the votes of the people, and in accordance with the Constitution exercises a substantial part of the national sovereignty in the political system of Iran. Article 56 states that the legislative power is a manifestation of the will of the people by which the social and political destiny of the people is determined.

24. In explaining the sovereignty of the nation the Constitution provides two ways for the legislative power to be exercised:

(a) Indirectly, the legislative power is exercised through the Majlis which is a consultative assembly of representatives elected by the people. The executive and judicial powers shall be duly notified of the legislation adopted by the Majlis so that they may enforce it after it has passed through the prescribed stages;

(b) As far as certain very important economic, political, social and cultural issues may be concerned, the exercise of the legislative power is effected through a referendum. Article 59 of the Constitution stipulates that any proposal for holding a referendum shall be approved by two thirds of the representatives of the Majlis. Thus, legislative power is exercised jointly by the Majlis and the people.

25. The legislative power of the Islamic Republic of Iran consists of a single legislative chamber. The Islamic Consultative Assembly, with 270 representatives, is the only Parliament of Iran. The number of representatives from each constituency is determined on the basis of its population. According to article 4 of the Electoral Law of the Islamic Consultative Assembly, people choose their representatives by direct vote in general elections. The term for members of the Majlis is four years.

26. According to article 64 of the Constitution and article 2 of the Electoral Law, religious minorities can also send their own representatives to the Majlis. The Zoroastrians and the Jews each send one representative and the Assyrians and Chaldeans together have one representative. The Armenians in the north and south of the country each elect one representative.

27. Article 109 of the Constitution provides that debate in the Majlis shall be held in open sessions and announced through the mass media and published in the official gazette.

28. Article 86 of the Constitution states that the representatives of the Majlis shall be free in expressing their views and casting their votes and shall not be prosecuted or arrested for their views as expressed in the Majlis or in the votes cast in the discharge of their duties.

29. To ensure that parliamentary enactments are not contrary to the tenets and precepts of Islam and the Constitution, a "Council of Guardians" has been formed and is composed of six religious jurisprudents who should be just and abreast of the times, and six jurists well versed in different branches of law. The members of the Council of Guardians are appointed for a term of six years. All enactments of the Majlis are submitted to the Council of Guardians and the Council shall examine them within 10 days after receipt to ascertain whether or not they reconcile with the tenets of Islam and the Constitution. If the Council of Guardians finds enactments contrary to Islamic tenets and the Constitution, they return them to the Majlis for reconsideration (article 94 of the Constitution). The Council of Guardians also interprets the Constitution and such interpretation shall be approved by three fourths of the members of the Council.

E. The executive power

30. According to article 113 of the Constitution the President is the highest-ranking official authority of the country after the Leader and has the responsibility for enforcing the Constitution and is the head of the executive power, except for matters which directly relate to the person of the Leader. Article 115 of the Constitution stipulates that the President shall be elected from among distinguished religious and political personalities of Iranian origin and nationality, and shall be efficient and prudent with a good reputation, honesty and pious, faithful to the foundations of the Islamic Republic of Iran and the official religion of the country. The President is elected for a term of four years by direct vote of the people; he may be re-elected for a consecutive term only once. According to article 133 of the Constitution Cabinet ministers are nominated by the President and introduced to the Consultative Assembly for a vote of confidence.

31. Article 126 of the Constitution states that the President is personally responsible for national planning, budgetary and State employment affairs and may entrust these tasks to others.

32. Article 125 of the Constitution stipulates that all treaties, protocols, agreements and contracts between Iran and other countries and treaties relating to international alliances shall be signed by the President or his legal representative after they have been approved by the Majlis. The President may have assistants for the conduct of his constitutional duties. The President shall sign the enactments of the Majlis or the result of any referendum, after it has passed through the legal stages, and shall refer them for implementation to the responsible authorities.

33. As the head of the executive power, the President must ensure proper enforcement of the laws. Article 122 of the Constitution states that, "The President shall be responsible vis-à-vis the nation, the Leader and the Islamic Consultative Assembly, within the limits of his authorities and responsibilities undertaken by him by virtue of the Constitution and other ordinary laws." Article 134 of the Constitution states that the President is responsible to the Consultative Assembly for the actions of the Cabinet ministers.

34. To prevent misuse of public assets, article 142 of the Constitution stipulates that the assets of the President and his family and those of other high officials shall be examined immediately before and after their tenure to ensure that they have not increased unreasonably.

35. If in the conduct of his political and executive duties, the President commits an act that violates the rights and freedoms of the people, he may be held politically accountable and criminal charges may also be instituted against him. Article 140 states that the hearing of civil charges against the President will lie within the jurisdiction of the ordinary tribunals of the common courts after notification to the Islamic Consultative Assembly.

36. In addition to his political responsibility the President is also responsible to the judicial power. The Supreme Court can prosecute the President for failure to carry out his legal duties, and in the event of being convicted, suggest to the Leader that he be dismissed.

F. The judicial power

37. The Constitution of the Islamic Republic of Iran provides for the strength, independence and moral authority of the judicial system. The preamble to the Constitution envisages the creation of a judiciary based on Islamic justice and comprised of just judges familiar with Islamic jurisprudence.

38. Under article 156 of the Constitution the judicial power is an independent power which shall protect individual as well as social rights and shall be responsible for the administration of justice. The independence of the judiciary is ensured in a number of ways. First, the head of the judiciary is appointed by the Leader and is not accountable to other branches of government (article 157 of the Constitution). Second, the administrative and employment affairs of the judiciary are independent of the other powers. Thirdly, members of the judiciary cannot be impeached and do not need votes of confidence (art. 158). Moreover, all cases are adjudicated within the judicial power and judgements are made with total independence.

39. Another reason for the independence of the judiciary lies in the fact that it has a monopoly with respect to all judicial duties from investigation to adjudicating litigation and issuing judgements. Article 61 of the Constitution states that the judicial power shall be exercised by courts of justice which shall be established according to the Islamic precepts and shall engage in settling disputes and claims, safeguarding the public rights, promoting and carrying out justice and implementing Hodoud as ordained by

religion. Furthermore, article 159 of the Constitution stipulates that "the State authority to deal with litigation and complaints shall be the courts of law".

40. Article 156 of the Constitution states that the judiciary must perform the following duties:

(a) To examine and pass judgements in respect of litigation, violations and complaints; to settle lawsuits, resolve hostilities, and take the necessary decisions and action in respect of that part of matters of personal status to be laid down by law;

(b) To restore public rights and to promote justice and lawful freedoms;

(c) To supervise the proper implementation of laws;

(d) To uncover crimes, to prosecute and punish criminals and implement Hodoud and the Islamic codified penal provisions;

(e) To take appropriate measures for preventing the commission of crimes and to reform the offenders.

41. For the purpose of carrying out the responsibilities of the judiciary in all judicial, administrative and executive matters, the Leader shall appoint, for five years, a mujtahid who is just, has knowledge of judicial matters and has managerial skills, as the head of the judiciary who shall be the highest authority of the judiciary.

42. According to article 158 of the Constitution, the head of the judiciary has the following duties:

(a) To establish the necessary organizational structure for the Justice Ministry;

(b) To draft judiciary bills appropriate for the Islamic Republic;

(c) To employ just and competent judges, to transfer or assign them to particular duties, and promote them in accordance with the law.

43. The Minister of Justice is responsible for all matters concerning the relationship between the judiciary and the executive and legislative branches. He shall be elected from among nominees presented to the President by the head of the judiciary.

44. In the Islamic Republic of Iran, except for the highest judicial authority (head of the judiciary) who is appointed by the Leader, judges are appointed by the head of the judiciary. Because of their critical responsibility and their important social mission, judges must be known among their peers as having exemplary and high qualifications. The judges and other senior judicial authorities should have adequate scholastic abilities and good

judicial expertise to be able to administer justice and ensure good enforcement of the laws. Accordingly, their qualifications for employment differ distinctly from those of other civil servants.

45. Article 164 of the Constitution stipulates that a judge may not be suspended, temporarily or permanently, except by a trial proving his guilt and in consequence of an offence warranting his dismissal. A judge may not be transferred or installed in a new position without his consent, unless warranted by the best interests of the society, pending the decision of the head of the judiciary and upon consultation with the head of the Supreme Court and the Attorney-General.

46. A deciding judge may make a wrong judgement or intentionally make a wrong decision. In such situations articles 18 and 19 of the Law on Establishment of Ordinary and Revolutionary Courts provides for a rehearing in the appeal courts. The majority of judges in the appeal courts are experienced and at least two judges hear cases. The ruling of the court of first instance is heard once more and if found to be a mistaken judgement, it will be overruled.

47. Article 161 of the Constitution states that the Supreme Court is to be formed for the purpose of supervising the proper implementation of the laws by the courts, ensuring uniformity of judicial procedure, and fulfilling any other responsibilities assigned to it by the head of the judiciary.

48. According to article 162 of the Constitution the chief of the Supreme Court and the Attorney-General must be mujtahids and well versed in judicial matters. They shall be appointed by the head of the judiciary, in consultation with judges of the Supreme Court, for a five-year term. At present the Supreme Court has 34 branches.

III. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

A. Judicial, administrative or other authorities having jurisdiction affecting human rights

49. Generally speaking all three powers of the government (legislative, executive and judicial) affect human rights in the legal system of the Islamic Republic of Iran. The Islamic Consultative Assembly has an undeniable effect on human rights by ratifying diverse legislation relating to political, civil, cultural and social rights. The executive power's impact on human rights is through preparing bills and implementing regulations and laws on enjoyment of civil rights by individuals. The judiciary also impacts on the exercise of human rights through the preparation of bills for the parliament, the creation of judicial procedures by the Supreme Court, and the hearing of complaints and grievances by the courts of justice. There are also special bodies that investigate complaints and claims of individuals relating to the violation of their rights. These organs ensure the enjoyment of the legitimate rights of individuals and raise awareness on the rights of citizens of Iran.

50. Article 174 of the Constitution stipulates that in accordance with the right of the judiciary to supervise the good conduct of affairs and the proper implementation of laws by administrative organs, an organization will be

established under the supervision of the head of the judiciary to be known as the "State Chief Inspectorate". This organ exercises continuous supervision over all government departments and agencies, the armed forces and law enforcement organs, State-owned companies, municipalities and their affiliated institutions, public notaries, all public entities and revolutionary institutions and organizations part or all of whose assets and shares belong to the Government. According to article 2 of the Law on the Establishment of the State Chief Inspectorate passed on 10 November 1981, this organ shall advise the President on all cases of administrative and financial misconduct in connection with ministries and revolutionary organs, and inform the relevant minister in charge of similar cases relating to State-owned or Government-affiliated enterprises. According to article 6 of the same law, should any case require prosecution, the Inspector or the head of the inspection board may propose, through the Inspectorate, that the prosecutor so proceed and the case shall be pursued until a final outcome.

51. The Constitution in article 173 stipulates that to hear the complaints, grievances, and objections of people against government officials, organs and statutes and to administer justice in their case a tribunal, named the Administrative Justice Tribunal, shall be formed under the supervision of the head of the judiciary. Article 21 of Administrative Justice Tribunal Act stipulates that all government units, whether ministry, organization, State-owned company or institution, municipality and affiliated entities or revolutionary organization, shall implement the decisions and rulings of the Tribunal relating to their units, and in case of non-compliance the culprit shall be dismissed from government service.

52. The High Disciplinary Court for Judges investigates violations by judges working for the Ministry of Justice, of whatever rank or position. Violations by the head of the High Disciplinary Court for Judges are investigated by the General Board of the Supreme Court.

B. Remedies available to victims of violations of human rights and system of compensation

53. In general, and from the legal point of view, compensation for losses resulting from an unlawful act is a legal responsibility.

54. Article 1 of Civil Liability law stipulates: "Any person who without legal authorization wilfully or as a result of negligence causes harm to someone's life, health, property, freedom, good name, commercial reputation, or any other right he is entitled to according to the law, which leads to material or non-material losses, is accountable for redressing the damage resulting from that act". Article 11 of the same law stipulates: "Employees of government, municipalities and their affiliated institutions who as a consequence of performing their duties or wilfully as a result of negligence cause losses to other persons, are personally responsible for the losses incurred. But if the losses incurred are not the result of their action and relate to defects of equipment and appliances used by the said organization, the responsible organization shall be held accountable for redressing the resulting damage".

55. Article 171 of the Constitution states that if a judge fails to consider rightly the merits of a case or makes an error in his judgement or ruling in a particular case and thus causes someone to sustain material or non-material losses, he shall be responsible for such failure according to Islamic practice; otherwise, the Government shall pay for the losses incurred and in any case the accused shall be rehabilitated. In line with this article, article 58 of the Islamic Punishment Act states that in such cases the judge found to be responsible shall be held liable for material losses in accordance with Islamic practice; otherwise the Government shall pay for the losses incurred. For non-material losses, if any harm is caused to the good name of a person as a result of an error by a judge, action shall be taken to restore and rehabilitate the accused.

C. Legal system of Iran and some principles contained in international human rights instruments

56. In this section some of the issues covered in the international human rights instruments will be explained and the corresponding legal arrangements in the legislation of the Islamic Republic of Iran will be discussed.

Freedom

57. Paragraph 7 of article 3 of the Constitution holds the Government responsible for ensuring political and social freedom within the framework of the law. Article 9 of the Constitution stipulates that in the Islamic Republic of Iran, freedom, independence, unity and territorial integrity are inseparable. The latter part of this article stipulates that no authority shall have the right to deprive the people, under the pretext of safeguarding the independence and territorial integrity of the country, of their legitimate freedoms.

58. Article 48 of the Islamic Punishment Act states that if a minister or a government official in violation of law deprives people of freedoms accorded to them by the Constitution, he shall be suspended for a period ranging from three to five years.

59. Article 3 of the Press Act stipulates that the press shall inform the public by providing views, constructive criticisms and proposals of people and officials while observing Islamic norms and the best interests of the society. Article 4 of the Act states that no governmental or non-governmental authority has the right to put pressure on the press to publish specific materials or articles for the purpose of censoring or controlling the press.

60. Article 26 of the Constitution states that the formation of parties, societies, political or professional associations, and Islamic or other recognized religious societies of the minorities shall be free, provided that they do not violate the principles of independence, liberty, national unity and Islamic standards. No one may be prevented from participating in such an organization or forced to participate in one.

Equality

61. Paragraph 14 of article 3 of the Constitution holds the Government responsible for ensuring equal rights in every respect and equitable legal security for men and women alike and the equality of all the people before the law. Article 19 stipulates that the people of Iran of whatever ethnic or tribal group all enjoy equal rights and the colour of skin, race, language and the like shall not be considered as a privilege. Article 20 states that all persons, men and women, shall be entitled to equal protection of the law and shall enjoy all human, political economic, social and cultural rights with due observance of the Islamic precepts.

Participation

62. Article 6 of the Constitution states that in the Islamic Republic of Iran, affairs of State shall be administered as voted upon by the people through elections such as those for president, representatives of the Majlis, members of the councils and the like, or through a referendum as stipulated in other articles of the Constitution.

Presumption of innocence

63. Article 37 of the Constitution states that innocence is always presumed and thus no one shall be regarded as guilty unless his guilt is proved in a competent court. Article 356 of the Code of Civil Procedure states that presumption of innocence is a basic element and the burden of proof is on the claimant, otherwise, according to this principle, the defendant shall be exonerated.

Non-retroactivity of laws

64. According to article 169 of the Constitution no act or omission thereof shall be considered as an offence on the strength of a law enacted thereafter.

65. Article 11 of the Islamic Punishment Act also states that all government regulations, and punishment and corrective measures shall be based on the law enacted before the commission of an offence. No one shall be punished for any act or omission which is made a punishable offence by a law enacted after commission of that act.

Prohibition of arbitrary arrest

66. Article 32 of the Constitution stipulates that no one shall be arrested unless ordered by law. If a person is arrested, the accused shall be notified in writing of the reasons for the accusation and within 24 hours the preliminary case shall be referred to a competent court which shall pursue the case at the earliest.

67. Article 71 of the Islamic Punishment Act stipulates that an official of any of the three branches of Government or others who arrest a person without a warrant from a competent authority or for reasons for which the law does not

prescribe arrest and detention, or hides a person by force, shall be imprisoned from six months to three years and shall be deprived of government employment.

Prohibition of torture

68. Article 38 of the Constitution states that any torture whatsoever to make people confess or to obtain information shall be forbidden. To oblige a person to witness, confess or swear an oath shall not be allowed nor shall such witness, confession and oath be valid. The party violating this article shall be punished according to the law.

69. Article 58 of the Islamic Punishment Act also stipulates that an employee of the judicial power or others who use or order physical torture and corporal punishment to extract a confession shall be sentenced to prison from six months to three years and, if the accused dies as a result of torture, shall be accused of homicide; the person ordering the torture shall be punished for ordering an act of homicide.

70. Article 176 of the Rules of Procedure for Prison Organization and Corrective and Security Measures approved in 1993 by the head of the judiciary stipulate that punishment of prisoners and application of coercive and degrading punishments are forbidden in prisons. The Constitution also bans torture and insulting or degrading treatment of prisoners or detainees.

71. Article 39 of the Constitution stipulates that aspersion against the honour and reputation of a person arrested, imprisoned or exiled according to law shall in no way be allowed and shall be liable to punishment.

Right to legal counsel

72. Article 35 of the Constitution provides that in all courts, the parties to a case shall be entitled to appoint a lawyer and if they cannot afford one, they shall be provided with facilities to acquire legal assistance.

73. Article 314 of the Code of Civil Procedure states that in all criminal cases the accused can have up to three lawyers of his own choosing. According to article 112 of the same Code, the accused may have one lawyer during the investigation phase.

74. According to the Law concerning Criminal Courts and Decision of the Supreme Court on Uniformity of Procedure (No. 1363.6.15-8), the presence of a lawyer is mandatory for offences punishable by a death sentence or life imprisonment. If a judgement is issued without presence of a lawyer, it shall be annulled by the Supreme Court.

75. Moreover, according to the Single Article Act on Choosing of Counsel by Litigants, the courts are obliged to accept lawyers, and refusal to accept them invalidates the decision of the court and makes the judge liable for disciplinary action.

Open hearings

76. Article 165 of the Constitution states that trials shall be held in open sessions, except when the court decides that this would be contrary to public decency or order. Article 168 states that investigation of political and press offences shall be held in open session of courts of justice in the presence of a jury. The closing part of article 165 explains that in private litigations the parties may request that the trial not be held in open court.

Sufficient proof

77. Article 166 of the Constitution states that the rulings of the courts shall be based on sufficient proof as to the merits of the case and also on the strength of pertinent laws and principles.

78. Article 5 of the Civil Procedure Code states that the courts shall judge each case in accordance with the law and shall not base their judgements on general rules. Article 161 of the Constitution places the responsibility for supervising the proper implementation of the laws by the courts on the Supreme Court. Accordingly, if rulings by the courts are not based on sufficient proof and on the strength of pertinent laws, the Supreme Court would overturn them.

D. How human rights instruments are incorporated in the national legal system

79. According to article 77 of the Constitution all international treaties, protocols, contracts and agreements shall be approved by the Majlis. According to article 9 of the Civil Code, treaties concluded between the Iranian Government and other Governments in accordance with the Constitution shall have the force of law.

E. Invoking international human rights instruments in domestic judicial authorities

80. As stated above, according to article 77 of the Constitution and article 9 of the Civil Code, treaties, conventions, agreements and, in general, all international instruments that have been ratified by the Islamic Consultative Assembly, approved by the Council of Guardians and signed by the President become binding and have the force of law in the country. International human rights instruments that have been approved by the Islamic Consultative Assembly also become binding.

81. According to article 77 of the Constitution and article 9 of the Civil Code, the above-mentioned international instruments influence legislation and the implementation of laws. The practice of ordinary courts and the Supreme Court in the future will establish a precedent concerning whether an individual can invoke provisions of the Covenant in legal proceedings.

82. The Supreme Court is the ultimate judicial authority for establishing judicial practice and will establish a uniform practice. Nevertheless, the legal department of the judiciary, which comprises a number of highly

qualified judges, has issued advisory opinion No. 7/1669 dated 19 October 1992, arguing that direct reference to provisions of international instruments may be made in domestic judicial proceedings.

F. Special national bodies for the protection of human rights

83. In addition to mechanisms and arrangements within the judiciary, there are also special bodies that monitor the exercise of human rights. These bodies are described below.

84. Article 90 of the Constitution states that any person having a complaint with respect to the legislative, executive or judicial power can lodge his complaint in writing with the Article 90 Commission of the Majlis. The Majlis shall consider the complaint and give an adequate reply thereto. If, however, such complaints relate to the executive or judicial power, the Majlis shall consider the case and call upon the executive or judicial power to give adequate clarification and shall announce the results within a reasonable period of time. If the case is a matter of interest to the public, it shall be publicized. According to article 44 of the Rules of Procedure of the Islamic Consultative Assembly, the Article 90 Commission may communicate directly with the three branches, all government ministries, departments and their affiliated organizations, and revolutionary organizations and institutions that are in one way or the other affiliated with the Government, and ask them to give an adequate reply to unanswered complaints. The report of the Commission is included on the agenda of the Majlis and read at the first open session.

85. The Islamic Human Rights Commission was established in 1994 with the aim of promoting human rights, supervising the protection of human rights and reviewing the position of the Islamic Republic of Iran vis-à-vis international instruments. This Commission is a national body and its establishment was welcomed by the United Nations Commission on Human Rights in resolution 1996/64 of 23 April 1996.

86. At present, the Commission is composed of the following organs:

(a) The High Council, comprising nine persons representing different social groups, including judges, lawyers, representatives of parliament, members of the Bar Association and individuals active in the field of human rights;

(b) Four committees dealing with technical matters, women's affairs, internal follow-up and external monitoring. Each committee consists of independent members qualified for its respective mandate.

87. The secretariat of the Commission is the permanent organ of this body and comprises different units in accordance with the requirements of the Commission. The Commission also enjoys the cooperation of experts and the public.

88. The Islamic Human Rights Commission has been very active since its inception in following up complaints, conducting numerous visits to prisons and other judicial centres to verify observance of human rights standards, and carrying out research and training activities in the field of human rights.

89. To promote active participation in international human rights debate and to coordinate the work of various domestic organs of the Islamic Republic of Iran with international human rights organizations, the Department of Human Rights was established in 1991 in the Ministry of Foreign Affairs. This department makes policy, coordinates, guides and supports the active participation of the Islamic Republic of Iran in international forums, and cooperates with United Nations human rights organs, mechanisms and procedures.

90. The Department also follows up the alleged claims of human rights violations through relevant organs such as the judiciary, law enforcement agencies, the Prison Organization, the Ministry of the Interior and other bodies. The replies are forwarded to relevant United Nations organs and international NGOs. While bearing the responsibility of preparation of periodic reports on the international human rights instruments to which the Islamic Republic of Iran is a party, the Department of Human Rights furthermore serves as a bridge between domestic organs involved in the human rights field and international bodies. Despite the sensitivity of this issue, the Department strives to shed light on the realities of the human rights situation in Iran.

IV. INFORMATION AND PUBLICITY

91. The mass media, especially the print media, play an effective role in disseminating news and information on human rights development. There are numerous focal points active at the national level in reflecting news, decisions of international bodies and human rights resolutions for public awareness.

92. According to article 69 of the Constitution, the deliberations of the Majlis must be open and a full report thereof shall be made public through the radio and the official gazette.

93. All international human rights covenants and conventions shall have the force of law after ratification by the Islamic Consultative Assembly and made available to the public by the press, especially the official gazette.

94. One of the functions of the international departments of government ministries is to raise the level of knowledge of government personnel about international instruments. The Directorate General for International Social Affairs of the Ministry of Foreign Affairs has two separate departments, one dealing with International Social and Women's Affairs, and the other with Human Rights. The Department of Human Rights plays an important role in reflecting decisions and news relating to human rights and the provisions of human rights conventions at the national level.

95. Furthermore, cultural and artistic activities at the national level such as film productions, publication of books, etc. whose objective is the promotion and advocacy of human rights have no limitations and, as a matter of fact, are encouraged in society.

96. The periodic reports of the Islamic Republic of Iran on international human rights instruments are prepared by the Department of Human Rights at the Ministry of Foreign Affairs in close collaboration with all relevant organizations and institutions. After their review by the relevant treaty body, the concluding observations are published in the form of a report in newspapers. These reports are made available to the public at public libraries. The Islamic Human Rights Commission and Department of Human Rights hold annual seminars on various topics relating to human rights during which discussions take place on the periodic reports and the views of the treaty bodies.